

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Ricky Redeker,**  
Petitioner-Appellant,

v.

**Pottawattamie County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-78-0363**  
**Parcel No. 7544 21 176 004**

On April 3, 2012, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Ricky Redeker, was represented by Mark Redeker. The Pottawattamie County Board of Review was represented by Assistant County Attorney Leanne A. Gifford. Both parties submitted evidence. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Ricky Redeker filed this appeal for Litdecker Ltd., a family owned company. Litdecker Ltd. is owner of a commercially classified Super 8 Motel (Carter Lake Super 8) located at 3000 Airport Road, Carter Lake, Iowa. The property is a two-story hotel/motel, built in 1998, with 30,928 square feet of gross building area and 784 square feet of canopy. There are sixty-six rooms, an indoor pool, and 30,550<sup>1</sup> square feet of asphalt parking. The site is 3.55 acres.

Redeker protested to the Pottawattamie County Board of Review regarding the 2011 assessment of \$2,000,000, which was allocated as follows: \$117,875 in land value and \$1,882,125 in

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<sup>1</sup> Included in the GBA is a 1996 square-foot, one-story addition (pool room) built in 1999.

improvement value. Redeker's claims were 1) that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a); 2) that the property is assessed for more than the value authorized by law under section 441.37(1)(b); 3) that the property is not assessable, is exempt from taxes or misclassified under section 441.37(1)(c); and 4) that there has been a change downward in the value since the last assessment under sections 441.37(1) and 441.35(3). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Additionally, the claim under section 441.37(c) was essentially a claim of over assessment since he stated the "value of business is way down from previous years." Accordingly, we do not consider the claims under sections 441.37(c) or 441.37(1) and 441.35(3). Redeker asserted the correct value was \$1,350,000 allocated as \$117,875 in land value and \$1,232,125 in improvement value. The Board of Review denied the protest.

Redeker then appealed to this Board reasserting the claims of inequity and over-assessment. He now asserts the correct total value should be \$1,250,000, allocated as \$117,875 in land value and \$1,132,125 in improvement value.

Mark Redeker, Ricky Redeker, and Joyce Redeker, three of the owners of Carter Lake Super 8 testified. They provided three properties as equity comparables. Two of the properties, however, are located in Nebraska outside the Pottawattamie County taxing jurisdiction and cannot be considered as equity comparables.

Redekers referred to the remaining comparable property as the "Eight Twenty-nine Ltd" located at S. 24th Street in Council Bluffs (Council Bluffs Super 8). The petition to the Board of Review indicates this property has an assessed value of \$1,347,110.<sup>2</sup> However, a partial property

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<sup>2</sup> This is the total 2009 assessed value according to the property record card provided by the Redekers.

record card for this equity comparable was included with the protest, which indicates the 2011 total assessed value for the Council Bluffs Super 8 is \$1,500,000.

Redekers assert the Council Bluffs Super 8 is has a better location than the subject property because it is situated between two interstates and has three casinos nearby; whereas, the Carter Lake Super 8 is surrounded by vacated property in disrepair. Redekers believe the abandoned properties near their hotel, the lack of maintenance of a public pond which fronts their property, as well as unimproved land nearby decreases the market value of their property.

Additionally, the Council Bluffs Super 8 has 87 rooms compared to the Carter Lake Super 8's 66 rooms. Yet, Redekers point out the Council Bluffs Super 8 is assessed at \$17,241 per room, compared to their per-room assessment of \$30,303. However, we note the subject property's per-room assessment includes a pool, as well as a larger "base footprint" of 14,414 square feet compared to the Council Bluffs Super 8 which has a 7058 square foot base footprint.

While both the Super 8's have similar gross building area (Carter Lake with 30,928 square feet and Council Bluffs with 31,044 square feet), the "main base" of the subject property is nearly double that of the Council Bluffs property. Carter Lake Super 8 is a two-story building with a main base square foot of 14,414<sup>3</sup> totaling 28,828 square-feet for this two-story structure. The subject property, however, is a three-story building with a main base square foot of 7,058<sup>4</sup> totaling 21,174 square-feet for the three-story structure. The base of a building is typically more expensive to construct and costs generally decrease for the upper levels. The following chart illustrates the costs used for each property by the Pottawattamie Assessor. It shows the subject property has an increased cost new for the main footprint due to larger size.

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<sup>3</sup> 14,414 is the main base of the subject property. There is also a one-story addition with a 1996 square-foot base and a two-story addition with a 4743 square-foot base for a total base area of 21,153 square-feet.

<sup>4</sup> Council Bluffs Super 8's main base is 7058 square feet. There is also a two-story addition with a 4743 square-foot base for a total base are of 11,801.

	Main Footprint	Price	Cost New	Upper Levels	Price	Cost New	Total Cost New <sup>5</sup>
Carter Lake Super 8	14,414	\$67.20	\$968,621	14,414	\$59.20	\$853,309	\$1,821,930
Council Bluffs Super 8	7058	\$68.50	\$483,473	14,116	\$60.60	\$855,430	\$1,338,903

The Redekers also offered 2011 expenditures and revenues, as well as “statistics reports” for the 2008, 2009, 2010, and 2011 calendar years. These reports provide room statistics, guest statistics, activity counts, and revenue. Additionally, 2008, 2009, and 2010 US Income Tax Return for an S Corporation filed for the Super 8 Motel of Carter Lake by the Litdecker Ltd were included with record. The Redekers testified that their property has had increased vacancy and a decline in revenue during this period. Although we find the Redekers honest and sincere, and this data does show a decline over the last several years, none of this information shows what the correct market value of the subject property should be for January 2011. This could have been done by doing an income approach to value; however, Redekers would have first needed to show there were no sales of comparable properties. Ultimately, this Board gives the information little weight as it neither shows the property is inequitably assessed or over assessed under the methods prescribed by law.

The Board of Review did not provide any evidence relating to the value of the subject property.

While we found all of the Redekers were honest and credible, only one property within the assessment jurisdiction was presented as an equity comparable. Additionally there was no evidence of the comparable property’s market value or that different assessing methods were used to value the two properties. For these reasons, we find there is insufficient evidence to support the claims before this Board and must affirm the assessment.

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<sup>5</sup> Total cost new illustrated reflects *only* the main portion of each property. It does not include the additions or site value and is not reflective of depreciation.



### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). While Redeker initially provided three properties for equity comparison, only one was located in the assessment jurisdiction. Assessments from two

different assessing jurisdictions are not comparable. *Maytag Co. v. Partridge*, 210 N.W.2d 584, 594-595 (Iowa 1973). Furthermore, because only one property remained for comparison, it was inadequate to show inequity. The Iowa Supreme Court has interpreted “representative number of comparable properties” to be more than one property. *Maxwell v. Shiver*, 257 Iowa 575, 581, 133 N.W.2d 709, 712 (1965). This “statutory requirement is both a jurisdictional prerequisite and an evidentiary requirement for bringing a claim of inequitable or discriminatory assessment before the board.” *Montgomery Ward Dev. Corp. by Ad Valorem Tax, Inc. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992). Furthermore, the word “shall” as used in the statute makes the listing of comparable properties mandatory as failing to do so would “directly frustrate[] the sole function of the requirement, which is to enable the board to make a preliminary determination on the matter of equitability of assessment.” *Id.*

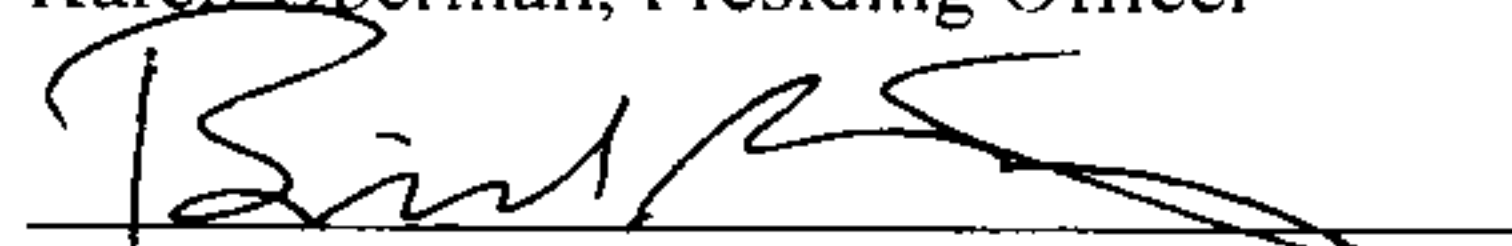
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Redeker failed to provide this Board with evidence that the current assessed valuation is more than market value.


In this Board’s opinion, the evidence does not support the claims that the property is inequitably assessed or assessed for more than the value authorized by Iowa Code section 441.21. We therefore affirm the assessment of the Redeker’s property as determined by the Pottawattamie County Board of Review as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of the Redeker property located at 3000 Airport Road, Carter Lake, Iowa, of \$2,000,000 as of January 1, 2011, set by the Pottawattamie County Board of Review, is affirmed.

Dated this 31 day of May, 2012.

  
Karen Oberman, Presiding Officer

  
Richard Stradley, Board Chair

  
Jacqueline Rypma, Board Member

Cc:

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ATTORNEYS FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-31</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	